

Individual Practices of Marci B. McIvor
U.S. Bankruptcy Court for the Eastern District of Michigan
Southern Division
211 W. Fort St., Suite 1850
Detroit, Michigan 48226
Courtroom 1875
Courtroom Deputy, Patti O'Hara (313) 234-0013

I. Communications with Chambers

- A. Chambers staff cannot give legal or procedural advice. The Court's procedures are governed by the Federal Rules of Bankruptcy Procedure and Local Rules of Bankruptcy Procedure for the Eastern District of Michigan, which are available on this website. This memorandum is intended as a supplement to those rules, and not as a substitute.
- B. Telephone calls. Telephone calls to chambers are permitted, but should be made only when necessary. Chambers personnel cannot provide case information. All calls pertaining to case information and docket entries should be directed to the Auto Attendant at (313) 234-0065, or parties may view case dockets on PACER.
- C. Letters. Letters to the Judge are discouraged; written communications should be made only by pleadings. Copies of correspondence between counsel shall not be sent to the Judge and will be discarded. Letters to the Judge from pro se litigants may, at the Judge's discretion, be treated as pleadings and will be docketed as such.
- D. Facsimiles. Faxes to chambers are not permitted unless specifically requested by the Judge. When the Judge permits a fax, the use of the chambers fax number is for that time only.

- E. Scheduling and calendaring. For scheduling or calendar matters, call Ms. Patti O'Hara at (313) 234-0013.
- F. Requests for adjournments. Requests for adjournments should be made strictly in conformance with L.B.R. 7016-3, except that one adjournment of a hearing on a motion or initial status conference in an adversary proceeding shall be permitted by telephone to Ms. O'Hara if all counsel to the hearing have agreed. A stipulated order must be submitted to the Court for entry.

II. Motions

- A. Filing of motion papers. All papers should be filed at Intake on the 21st floor. With the exception of motions for expedited hearings and pleadings specifically requested by the Judge, the Judge's copy of pleadings should be filed with Intake and not brought to chambers. If pleadings are being mailed to the Court for filing, they should be addressed to U.S. Bankruptcy Court, 211 W. Fort St., 21st Floor, Intake Department.
- B. Oral argument on motions. When an answer/objection to a motion is filed, the Court will schedule oral argument on the motion. The parties will be notified of the date and time of argument.
- C. Motion day. Judge McIvor's motion day is Wednesday. Counsel does *not* need to check in with the Courtroom Deputy either in chambers or in the courtroom. Cases will be called generally in the order in which they appear on the docket, which is posted outside the courtroom.
- D. Pro hac vice appearance. A motion pursuant to L.B.R. 9014-1 must be filed with the

Court. Pro hac vice appearances are allowed upon approval from the Court.

- E. Participation by telephone. Participation by telephone is permitted. Counsel must request approval in advance. Contact Ms. O'Hara to request permission and make arrangements.
- F. Discovery disputes. Discovery motions are not encouraged.

III. Orders

- A. Copies. Copies of orders are provided only according to L.B.R. 5006-1.
- B. Orders to show cause. Orders to show cause are issued by the Court. Orders to show cause will not be issued upon motion by a party, as there is no provision in the Bankruptcy Rules authorizing a party to request an order to show cause.

IV. Status Conferences

- A. Location. Status conferences are generally held on the record in the courtroom.
- B. Initial scheduling conference in an adversary proceeding. A Fed. R. Civ. P. 26(f) report must be filed five days in advance of the scheduling conference.
- C. Initial chapter 11 case status conference. The initial chapter 11 case status conference is scheduled by the Court upon order issued shortly after the case is filed. Debtor's counsel is responsible for sending notice to the 20 largest creditors.

V. Trials and Evidentiary Hearings

- A. Court Recorder. Please respect the Court Recorder's function. Speak clearly. Do not speak while someone else is speaking. New attorneys should give the Court Recorder their business card to ensure correct information in the record.

- B. Exhibits. For trials and evidentiary hearings, parties must strictly comply with L.B.R. 7016-1(d). At least one day prior to trial or evidentiary hearing, counsel shall arrange with the court recorder Kathleen Wiacek, (313) 234-0013, to have all documentary exhibits marked and provide copies of all exhibits to opposing counsel. At the trial or evidentiary hearing, counsel shall have five copies of all exhibits: one for the witness, the Judge, opposing counsel, the Court Recorder, and the Law Clerk.
- C. Transcripts. Counsel are responsible for promptly raising any issue concerning the accuracy of transcripts certified by the official Court Recorder. Counsel should contact the Court Recorder, Kathleen Wiacek, with material errors.

VI. Default Judgments

- A. Applications for default judgments will not be accepted absent the following:
1. A description of the nature of the claim;
 2. An affidavit representing that this Court has subject matter jurisdiction over the action;
 3. An affidavit representing that this Court has personal jurisdiction over the defendant;
 4. An affidavit representing that the defendant is not (i) an infant; (ii) an incompetent; or (iii) in the military;
 5. An original certificate of default stating that the defendant was properly served and failed to answer/appear, signed and stamped by the Clerk of the Court;
 6. All required substantiating documentation. Generally, a copy of the complaint

satisfies numbers 1 - 3.

- B. If the plaintiff seeks an award of damages in the motion for default judgment, the plaintiff must also include:
1. A request for an amount equal to or less than the principal amount demanded in the complaint;
 2. Definitive information and documentation such that the amount provided for in the proposed judgment can be calculated. If this requirement cannot be satisfied, a default judgment may be granted as to liability, and damages will be determined at an evidentiary hearing.
 3. An affidavit representing that no part of the judgment sought has been paid, other than as indicated in the motion;
 4. A request for interest, if interest is sought, on the principal amount not to exceed the judgment rate under Michigan law or authority if a different rate is sought; and
 5. The calculations made in arriving at the proposed judgment amount.
- C. The application for default judgment must be accompanied by a proposed judgment pursuant to L.B.R. 7055-1.

VII. Settlements

Counsel are required to strictly comply with L.B.R. 9019-1 regarding the settlement of an adversary proceeding or contested matter.

VIII. Chapter 11 Plans of Reorganization and Disclosure Statements

The Judge uses a fast track system for all Chapter 11 cases unless it is determined that it is not practical. The Judge's requirements for information to include in the combined chapter 11 plan and disclosure statement can be found on the website.

IX. Law Clerks, Internships, and Externships

The Judge is not currently accepting applications for law clerks, internships, or externships. If a position becomes available, a notice will be posted on this website.

X. Reaffirmation Agreement Hearings

- A. Pro se cases. In all pro se cases where the Debtor signs one or more reaffirmation agreements, the Court will schedule a hearing to determine whether or not the reaffirmation agreement(s) will be approved.
- B. Debtor represented. In cases where the Debtor is represented by counsel and has entered into numerous reaffirmation agreements, the file will be screened and, where appropriate, approval of the reaffirmation agreements will be set for hearing.